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**KIRKLAND & ELLIS LLP**

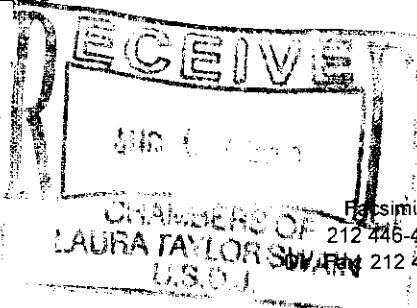
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August 8, 2005

**BY HAND**

Honorable Laura Taylor Swain  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

**MEMO ENDORSED**

IT IS ORDERED that counsel to whom this Memo Endorsement is sent is responsible for faxing or otherwise delivering promptly a copy to all counsel and unrepresented parties and filing a certificate of such service within 5 days from the date hereof. Do not fax such certification to Chambers.

Re: Eatoni Ergonomics, Inc. v. Research In Motion Ltd. *et al.*  
05 CV 04393 (LTS)(FM) ("the New York Action")

Research In Motion v. Eatoni Ergonomics, Case No. 05 CV 0851-K,  
(Pending in U.S. District Court for the Northern District of Texas, Dallas  
Division) ("the Texas Action")

Dear Judge Swain:

We represent Research In Motion Limited and Research In Motion Corporation (collectively, "RIM"), in connection with its patent infringement litigation with Eatoni Ergonomics, Inc. ("Eatoni")

Enclosed, please find a courtesy copy of an August 1, 2005 Order from Judge Kinkeade of the Northern District of Texas, Dallas Division denying Eatoni's Motion to Dismiss or Transfer Venue of that action to this Court.

On July 25, 2005 (docket entry 20), this Court granted RIM's Motion to Stay this New York Action pending the Texas Court's decision as to whether the Texas Action would go forward. In light of Judge Kinkeade's August 1 Order, RIM respectfully submits that the New York Action should be dismissed, without prejudice to Eatoni's right to proceed in the Texas Action.

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We have discussed RIM's recommendation with counsel for Eatoni. Eatoni does not oppose the dismissal without prejudice of the New York Action.

Respectfully submitted,

*Peter A. Bellacosa*

Peter A. Bellacosa (PB-2394)

PAB/th

Enclosure

cc: Marilyn Neiman, Esq.  
Counsel for Eatoni Ergonomics, Inc.

The above-captioned  
New York action is dismissed  
without prejudice to Eatoni's  
right to proceed in the  
Texas action.

SO ORDERED.

*LTS* 8/22/2005  
LAURA TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE